DOCUMENT RESUME

ED 271 208 PS 015 869

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TITLE Family Day Care: An Overview of Issues and Trends and Barriers to Home Day Care: Zoning Restrictions Block Operation of Family Day Care Homes.
INSTITUTION Children's Foundation, Washington, D.C.
SPONS AGENCY Carnegie Corp. of New York, N.Y.
PUB DATE Sep 84
NOTE 19p.
PUB TYPE Information Analyses (070)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Certification; *Child Caregivers; *Community Zoning; Costs; *Court Litigation; Early Childhood Education; *Family Day Care; *School Age Day Care; State Programs; Teacher Salaries
IDENTIFIERS *Group Day Care; *Infant Care; Regulatory Programs

ABSTRACT

A variety of issues and problems in family day care are surveyed in two brief papers. The first paper notes that the majority of children under the age of 2 years, who are currently being cared for outside the home, are being cared for in family day care settings. One of the attractions of this kind of care is its relatively low cost compared to center-based care; nevertheless, infant care continues to be the most costly part of the child care system. While helping to elevate the status of family day care providers, this rapid influx of infants into the home day care market promotes a division of day care stages: family day care for children up to about age 3, and preschool, center, or nursery programs afterwards. Effects of this trend include a continued shift in the composition of day care homes and a more formal educational orientation in preschools. Additionally, family day care homes often unofficially provide care to school age children and thereby jeopardize their licenses. Group homes appear to be a growing trend in the expansion of family day care. More middle class women are providing child care at home. Seventy percent or more of all family day care remains unregulated. The second paper takes up a particular problem, namely, the increased frequency with which the operation of family day care homes is being jeopardized by restrictive local zoning requirements and covenants. Many providers have been brought to court or before a hearing board by complaining citizens residing in single-family areas. Increasingly, they are fighting back. (RH)

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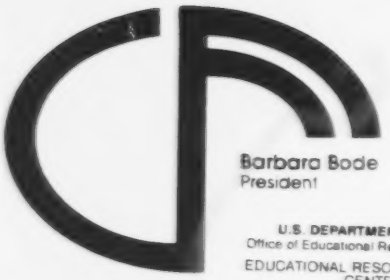

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FAMILY DAY CARE:

AN OVERVIEW OF ISSUES AND TRENDS

Prepared for

The Carnegie Corporation of New York

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September 1984

Introduction

An estimated 1.5 to 2 million women in the United States care for other women's children in their own homes. Yet only a fraction of family day care providers are known to the communities in which they live, the regulatory agencies who monitor their profession, or their fellow providers who share the similar concerns of an over-worked, under-compensated profession.

The economic realities of child care are indeed troubling; parents are limited in their ability to pay for day care, and the federal government has reduced its support of child care, thus severely constraining states' ability to help underwrite the cost of care. Providers continue to bear the brunt of a child care system that no one can afford to pay for, often earning substantially less than the minimum hourly wage.

Research on family day care during the past few years has been extremely limited. Cutbacks in federal support have contributed to the paucity of available information on this segment of the child care field, at such a critical time. Instead, information on recent trends and developments comes from a variety of state and local sources, including Child Care Food Program sponsors, information and referral agencies, regulatory agencies, family day care associations, day care systems and social service agencies.

The majority of children under the age of two, who are currently being cared for outside of the home, are being cared for in family day care settings. Recent surveys indicate that approximately 44% of women with children under the age of two are in the labor force. More than 40% of women with children under the age of one are working.

The overwhelming preference of parents seeking out-of-home care for their infants is family day care. A home-like environment, small group size, flexible hours, consistency of a single caregiver, close proximity to a child's own home, and the fact that family day care costs less than half of that of center based care -- all contribute to the desirability of family day care for parents with young children. Preliminary estimates of The Children's Foundation are that perhaps as many as 80 to 90% of all infants in day care are being cared for in family day care homes.

Regardless of where they're cared for, infant care continues to be the most costly piece of our child care system. For parents, the cost of center-based infant care may run well over one hundred dollars per week. In some family day care, costs to parents may be nearly as high. Yet, the vast majority of providers caring for infants receive singificantly less, because parents simply can't afford to pay any more for care. The result is that providers, while helping parents defray the high costs of infant care, are themselves the losers. Not only does infant care require far more work but providers are often required by the regulatory agency to

reduce their overall number of children if they are caring for infants. Thus, their overall income is reduced, as well.

While the data remains incomplete and largely anecdotal, the rapid influx of infants into the home day care market has helped to elevate the status of family day care providers. That so many infants of a wide variety of racial, cultural and socio-economic backgrounds are being cared for in family day care settings, lends a credibility and respectability to the profession.

With increasing numbers of parents using family day care for their infants, there appears to be a transition of care "stage" from home to center that parents often choose, if it is both available and affordable. Under such an arrangement a child will remain in family day care until the age of about 3 (the age may vary from 2½ to 3½), at which time the parent will enroll him/her either in a half day or full time pre-school, center or nursery school program. The day care provider may still care for a child during the before and after school hours, or during the other half of the day if the child is enrolled in a half day program. The underlying premise of the shift from home to center care is that children receive a stronger preschool education, learn more, and ultimately, are better prepared for school, if they have the benefits of a more structured educational environment prior to beginning

their formal schooling. This trend is worth noting because it has important current and future consequences for young children.

If parents are placing their preschoolers in center based care when it is available and if it is affordable then as we expand our center based capacity, increasingly, children under three will be located in homes, and children over three will be cared for in centers. This will cause a continued shift in the composition of day care homes. In addition, a greater emphasis will be placed on centers to provide a more formal educational experience for preschool age children.

More important, however, is that for those parents who have neither the availability nor the financial resources to place their child in a high quality preschool environment, the future consequences may indeed be ominous. Without training for day care providers, and with parents often unable to purchase anything but the least expensive form of custodial care, we may continue a shift towards the "ghettoization" of child care.

In addition to the burgeoning numbers of infants and toddlers that are being cared for in family day care, day care homes continue to provide care, both formally and informally, to millions of school age children. The National Day Care Home Study found that family day care represented, "the most prevalent mode of care ... for school children between 6 and 13 whose parents work".

Despite recent efforts of the public and private sectors to develop more programs for latch key children, family day care homes are often crowded with school age children during the before and after school hours. Providers caring for these increased numbers of children often do so informally, taking in little money, but if they are regulated, are almost always exceeding the numbers of children permitted in a home, and therefore jeopardizing the status of their license. In recent years, fourteen states have developed regulations for the care of children, before and after school, in family day care homes. Another nine states were considering passage of similar regulations in early 1984. These changes almost always permit a provider to care for an additional 2 or 3 children during the "pre and post" school hours.

Group homes appear to be a growing trend in the expansion of family day care. Group homes, often referred to as small centers, are permitted by regulation to operate with approximately twelve children in a provider's own home, with the stipulation that at least one assistant be present at all times. Group homes play a significant role in helping to promote professional development for family day care providers, enabling them to expand both the size and scope of their programs, and to employ other workers. However, group homes are not necessarily a guarantee of expanded income, and increasingly, group family day care homes are running into difficulty with local zoning regulations.

Family day care providers continue to earn, on average, significantly less than minimum wage. Home day care adjusts to a supply and demand market and with it the restrictions that a parent's income places on the amount of money they can charge. In the private market, a regulated provider's income on average may range from 30 to 50 dollars per child per week. Providers participating in a subsidized system, earn less, averaging about 30 to 40 dollars per week. Unregulated providers stand at the lowest end of the payment spectrum, their income entirely dependent upon the community in which they live and the numbers of children which they take into their homes.

Family day care providers continue to be a diverse socio-economic and cultural group. The National Day Care Home Study pointed to a disparity in income between white and minority providers. Other evidence as well confirms this fact and suggests that the age gap between white, black and hispanic providers in family day care may be widening.

The availability of training for day care providers has declined considerably in recent years. In the absence of training, the Child Care Food Program is often the only existing incentive for a provider to become regulated.

In recent years there appears to have been a influx of middle class, often college educated, women into family day care. Most of these "new" providers are married, and are supplementing the primary income of the household. Frequently,

they have already established careers, from which they are taking time off, in order to be at home with their young children. They view their family day care business as a temporary enterprise which enable them to stay home with their children while bringing in additional income. While these women generally tend to be white, an increasing number of black women are part of this group as well.

While the presence of this group of women in family day care has helped to improve the image of the profession, it is difficult to determine what the long term effects of their involvement may be. Much of that will depend on how actively they involve themselves in state and local organizations and advocacy efforts on behalf of their profession.

Recent studies indicated that 70% or more of all family day care remains unregulated. The common assumption that licensed homes are monitored frequently for various health and safety requirements is not matched by the reality. Licensing agencies in most states have been unable to monitor homes or enforce standards due in part to budgetary and personnel cutbacks in recent years.

A survey conducted by The Children's Foundation in early 1984 found that while 44 states had some form of regulation for family day care (either licensing, registration or certification), there has been a significant move away from regulating homes where fewer that three or four children are being cared for. Eighteen states now have enacted statutes

exempting providers who care for small numbers of children.

The survey also found a significant decrease in both training funds and training requirements for family day care providers.

During the past few years increased concern and attention has been paid to licensing standards for family day care in a number of states. Day care providers, parents, advocates, as well as regulatory agencies, have sought to revise licensing standards in order to encourage the participation of thousands of underground women, who run small day care programs in their homes, in the regulatory system. The goals of this regulatory movement have been to promote an expanded and more accessible day care market, to increase caregiver training, parent awareness and consumer monitoring, and to promote greater quality care. Yet efforts have been hampered by a continuing lack of funds, and a general state of crisis which exists within the regulatory field.

While it is known that a registration system brings more providers into the regulatory system, we do not know its overall effect on the quality of care which children receive.

The vast majority of day care providers continue to operate underground because they either do not perceive themselves to be provider/profession who therefore must become regulated, or because the system itself acts as a discouragement rather than an incentive to becoming regulated. While regulated providers are able to take advantage of federal and private programs, they may also be restricted in terms

of numbers of children in a home, who specifically they can enroll in their home, and the type of program that they can run. Under such circumstances providers prefer to operate undergound, particularly if there is no pressure by the parents for becoming regulated.

With increased frequency, the operation of family day care homes in communities throughout the country is being jeopardized by restricitive local zoning requirements and covenants. At issue are the rights of providers to operate day care programs in their homes in residential neighborhoods.

Other residents, concerned about increased noise, traffic, and activity, claim that home day care is a commercial business and thus must be zoned appropriately. As family day care becomes a more visible profession, the battle between providers and community becomes more heated.

Zoning regulations tend to be most restrictive in single-family residential areas. During the past six months, The Children's Foundation has received requests for technical assistance from providers in thirteen states having problems with local zoning regulations or restrictive covenants

Ironically, zoning battles are being waged at a time when increased public awareness and an enhanced professional image have brought greater visibility and respectability to the home day care field. Providers, having fought long and hard to combat the "babysitting" stereotype and to establish

themselves as small businesspeople, now find themsel s in the uncomfortable position of having to defend their usiness and professional status in light of the heightened zo ing battles. Many providers are finding themselves in court or before a hearing board defending their right to operate in a residential area stating that their homes are not businesses per se, but rather a babysitting service.

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Barriers to Home Day Care

Zoning Restrictions Block Operation of Family Day Care Homes

- by Loribeth Weinstein

With increased frequency, the operation of family day care homes in communities throughout the country is being jeopardized by restrictive local zoning requirements. At issue are the rights of hundreds of thousands of providers to operate day care programs in their homes in residential neighborhoods. Other residents, concerned about increased noise, traffic and activity, claim that home day care is a commercial business and thus must be zoned appropriately.

As family day care becomes a more visible profession, the battle between providers and community becomes more heated. Nationally an estimated 1.5 to 2 million women work as family day care providers in their own homes, providing daily care to more than 6 million children. Yet despite the fact that more than 40 states require some form of regulation, the majority of caregivers are unregulated. This unlicensed and underground home day care accounts for nearly 70% of the profession. Unrealistic, burdensome regulations and expensive start-up costs are two of the reasons cited for such a vast underground child care network.

In addition to state regulations and/or federal standards for home day care, providers often find themselves subjected to restrictive local zoning requirements as well. Such zoning regulations may altogether prohibit the operation

of any "commercial" business. Communities that have never specifically addressed the issue of home day care as a business can either prohibit the operation of a day care home or refuse to grant a "special exception" if a complaint is filed against a provider. In cases of specific charges or complaint, most day care providers tend to close down their operation.

The majority of providers operate in areas where they are not specifically permitted "by right" or by "special exception," doing so at the risk of being challenged or closed down if existing regulations are enforced. In general, zoning laws specify uses of property which are permitted by right in a particular zone and uses which are permitted by "special exception". If a property use requires a "special exception" or "variance", a hearing is usually required and certain conditions must be met to preserve the desired characteristics of the neighborhood. A "conditional use permit" may also be issued, and a fee or annual renewal of the permit may be required.

While a zoning hearing may have the appearance of a rather simple procedure, to most day care providers, unfamiliar with the public hearing process, it can be a very intimidating experience. Rather than appear before a public body, many providers simply prefer to operate in the shadows and take the risk that their activities will go unnoticed.

Fees for permits to operate a day care home can be prohibitive for providers, who on average, make less than minimum wage. Such fees may run from $1,500 to over $3,000 per year, leaving providers with little choice but to cease operating.

Zoning regulations tend to be most restrictive in single-family residential areas. Family day care may be prohibited or restricted in a single-family residential area but permitted "by-right" in an area zoned for multi-family dwellings. This type of zoning regulation may in effect prohibit family day care altogether if state regulations require a lot size or a type of housing that tends to be found only in single-family residential zones.

A community that seeks to include home day care in local zoning statutes may do so in a number of ways. It may:

- Prohibit all use other than residential occupancy and make no variance available.
- Require a variance for any use other than residential occupancy.
- Define home care specifically as "day care home" "nursery" or "center" according to the number of children and require a variance. (This definition may include day care for any number of children; or it may define "day care" as care for, say, 5 or more children, thereby permitting by omission day care for four or fewer children.)
- Define what a day care home is explicitly and permit "by right" or permit it as a "special exception".
- Include family day care in the definition of "allowable home occupations" and permit it wherever home occupations are permitted, either by right or as a special exception.

A survey conducted by The Children's Foundation in 1980 indicated that in many communities significant barriers stand in the way of operating family day care homes in single-family residential areas. The most common problems cited were:

1. No use other than residential occupancy is permitted.
2. A variance is required and is difficult to get due to:
   - high permit fee, site plan fee or hearing transcript fee;
   - a requirement that a lawyer be involved in the hearing process;
   - fire safety, landscaping or parking space requirements which are difficult to meet; and/or
   - a requirement that all neighbors agree to the variance.
3. The community has developed child care standards that are difficult to meet or that conflict with state requirements. (Some city councils have discretion over the hours of operation or the number of children a provider may serve.)

It is in single-family residential areas that the greatest number of cases against providers has arisen. In the first four months of 1984, the Foundation received calls from providers in fourteen states regarding local zoning battles that were jeopardizing the continued operations of family day care homes in residential communities. Often law suits are initiated by disgruntled neighbors angered by noise, increased traffic or what they feel to be a disturbing precedent. Older people, usually retirees, with their own children grown and gone, are frequently the most vociferous opponents of family cay care homes in their com-

munities. Their concerns range from their feeling that home day care is a business and therefore is in direct defiance of residential zoning codes to a purported lack of supervision in home-based care.

Ironically, zoning battles are being waged at a time when increased public awareness and an enhanced professional image have brought greater visibility and respectability to the home day care field. Providers, having fought long and hard to combat the "babysitting" stereotype and to establish themselves as small businesspeople, now find themselves in the uncomfortable position of having to defend their business and professional status in light of the heightened zoning battles. Many providers are finding themselves in court or before a hearing board defending their right to operate in a residential area stating that their homes are not businesses per se, but rather a babysitting service.

Yet, in increasing numbers, providers, often backed by their state or local associations, are fighting back. Those who have addressed zoning problems successfully have generally worked on the local level. In some areas they have persuaded their city council to permit family day care in residential zones by simply meeting with the zoning board or city council to explain what family day care is and to document the need for it. In others, providers have successfully challenged zoning restrictions by organizing community support using providers, parents, neighbors, child care groups and representatives of the state social

service agency and working through the hearing process. The last resort, and the one being used more frequently, is through the court system, where legal challenges are made to local zoning prohibitions.

In November 1983, a judge in the appellate division of Pennsylvania's Commonwealth Court singled out day care as the only commercial use that can be permitted in a residential neighborhood.

Recently, laws have been passed in a few states which pre-empt a community's right to restrict home occupations. Providers and advocacy groups in a number of other states are seeking passage of similar legislation. Whether or not state legislation that would supercede local zoning ordinances that bar the operation of family day care homes, will ultimately prove to be the most effective means to combat restrictive zoning codes has yet to be seen. In the meantime, the battles continue and, if those who want to keep family day care out of neighborhoods are the winners, children will be the losers!

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July, 1984